



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Thomas L Henderson
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VIRGINIA WASTE MANAGEMENT BOARD

ORDER BY CONSENT

ISSUED TO

NOTTOWAY COUNTY, VIRGINIA

Nottoway County Sanitary Landfill - Permit No. 304

Nottoway County, Virginia

SECTION A: Purpose

This is a Consent Order issued under the authority of Section 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Nottoway County, Virginia, to resolve certain apparent violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10, *et seq.*

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Act.
3. "Waste Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code §§ 10.1-1401 and 10.1-1184.
4. "DEQ" or "the Department" means the Virginia Department of Environmental Quality, an administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "DEQ-SCRO" means DEQ's South Central Regional Office.

6. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
7. "VSWMR" means the Waste Board's Solid Waste Management Regulations, 9 VAC 20-80-10, *et seq.*
8. "NCSLF" or "the Facility" means the Nottoway County Sanitary Landfill.
9. "The County" or "the Permittee" means Nottoway County, Virginia.
10. "The Permit" means Solid Waste Permit No. 304, issued to Nottoway County for operation of the NCSLF.
11. "NOV" means Notice of Violation.

SECTION C: Findings of Facts and Conclusions of Law

1. Nottoway County is the "owner" and "operator" of the Nottoway County Sanitary Landfill ("NCSLF") as those terms are defined in 9 VAC 20-80-10. The NCSLF is located off State Route 614 and North of U. S. Route 460 in Nottoway County, Virginia. Nottoway County has a permit to dispose "solid waste" as that term is defined in Va. Code 10.1-1400 and 9 VAC 20-80-10, and is identified as Permit No. 304 ("Permit"). The NCSLF consists of an area where waste previously has been but no longer is disposed ("Closed Area), which does not have a liner, and three discrete areas of excavation known as "cells," that have liners. .
2. On July 20, 2005, DEQ inspected the NCSLF to evaluate its compliance with the Permit and the VSWMR. During the inspection, DEQ made the following observations:
 - a. Nottoway County commenced disposing solid waste in an area of the NCSLF known as Cell No. 3 without first:
 - (i) Submitting written notice to DEQ that the construction of Cell No. 3 was complete as required by 9 VAC 20-80-550.A.1;
 - (ii) Submitting Construction Quality Assurance ("CQA") documents for Cell No. 3 as required by 9 VAC 20-80-550.A and its Permit at Module I.D.1.b and Module I.E;
 - (iii) Submitting a CQA officer's certification stating the approved CQA plan had been successfully carried out and that the constructed unit meets all the criteria as required by 9 VAC 20-80-250.B.18.d and its Permit at Module I.D.3;

- (iv) Submitting a letter from a registered professional engineer certifying that Cell No. 3 of the NCSLF had been completed in accordance with the approved plans and specifications, and could begin operation as required by 9 VAC 20-80-250.B.18.d, 9 VAC 20-80-550.A.1 and its Permit at Module I.D.2 and Module I.E; and,
 - (v) Arranging for DEQ to inspect Cell 3 of the site and confirm that it was ready for operation as required by 9 VAC 20-80-550.A.2
 - b. Failure to adequately document random load inspections as required by 9 VAC 20-80-250.C.1.c;
 - c. Failure to adequately document NCSLF's personnel training as required by 9 VAC 20-80-250.C.1.c and as required by the Unauthorized Waste Control Program in its Permit at Module II., Attachment II-1 Operations Manual and Permit Appendix II-E, Section 3.0;
 - d. Failure to maintain the integrity and effectiveness of the final cover on the closed (unlined) unit as required by 9 VAC 20-80-250.F.1.a;
 - e. Open burning of disposed lumber, which constitutes a solid waste and may not be burned in accordance with 9 VAC 20-80-250.C.8;
 - f. Improper management of ash from previous burnings. Nottoway County pushed ash to the back of the burn pile. Failure to landfill ash as soon as there was no threat of fire as required by Permit Module II, Permit attachment II-1 Operations Manual;
 - g. Failure to maintain monthly compliance self-evaluation forms as required by Permit Module II, Permit Attachment II-1 Operations Manual; and,
 - h. Failure to maintain records of the Decomposition Gas Monitoring and Groundwater Monitoring events of April 6-7, 2005 as required by 9 VAC 20-80-570.B.1 of the VSWMR and Permit Module II, Permit Attachment II-1 Operations Manual.
3. Prior to DEQ issuing the NOV, Nottoway County, submitted certain of the CQA documents relating to the construction of Cell No. 3. Accordingly, on September 9, 2005, DEQ issued a conditional Certificate to Operate Cell No. 3 to Nottoway County.
 4. On September 13, 2005, DEQ and Nottoway County met to discuss the NOV. During the meeting, the Nottoway County Administrator indicated that Cell 3 had been engineered to receive waste since a point late in 2004 and had sat idle since that time. No CQA documentation for Cell 3 was submitted to DEQ during this

idle period. In addition, during an inspection of the Facility conducted by DEQ on May 16, 2005, the Facility's licensed operator explained to DEQ's inspector that Cell 3 was complete with the exception of the tie in of the leachate collection system.

5. During the September 13, 2005 meeting, DEQ noted that after reviewing the CQA documents submitted by Nottoway County and based on observations made during DEQ's September 9, 2005 Cell 3 CTO inspection, that it appears that a significant portion of the eastern slope of Cell No. 1 and lower portions of the northern and southern slopes of Cells No. 1 and 2 are at or near final elevations. Accordingly, if verified through engineering surveys, Nottoway County must cover the waste with final cover as required by Permit Module III, Permit Attachment III-1, and Permit Modules XII and XIII.

SECTION D: Agreement and Order

By virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Nottoway County, and Nottoway County agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Nottoway County, and Nottoway County voluntarily agrees, to pay a civil charge of **\$3,700** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Nottoway County's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Nottoway County, for good cause shown by Nottoway County, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by

other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Nottoway County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Nottoway County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Nottoway County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order, or any subsequent deliverables required to be submitted by Nottoway County and approved by the Department, without the consent of Nottoway County.
6. Failure by Nottoway County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Nottoway County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such circumstance. Nottoway County must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Nottoway County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. The reasons for the delay or noncompliance;
 - b. The projected duration of any such delay or noncompliance;
 - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Regional Office in writing within 24 hours of learning of any condition above, which Nottoway County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. Any plans, reports, schedules or specifications attached hereto or submitted by Nottoway County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
11. This Order shall become effective upon execution by both the Director or his designee and Nottoway County. Notwithstanding the foregoing, Nottoway County agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until:
 - a. Nottoway County petitions the Director or his designee to terminate the order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Nottoway County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Nottoway County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. By its signature below, Nottoway County voluntarily agrees to the issuance of this Order.
14. The undersigned representative of Nottoway County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Nottoway County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Nottoway County.

And it is so ORDERED this 19th day of December, 2005.



Robert G. Burnley, Director
Department of Environmental Quality

Nottoway County voluntarily agrees to the issuance of this Order.

By: Ronald E Roark

Title: County Administrator

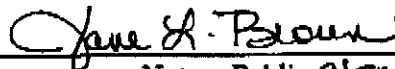
Date: Nov. 9 2005

Commonwealth of Virginia

City/County of Nottoway

The foregoing document was signed and acknowledged before me this 9th day of
November, 2005, by Ronald E. Roark, who is
(name)

County Administrator of Nottoway County, on behalf of Nottoway County.
(title)



Notary Public Clerk
Nottoway Circuit Court

My commission expires: _____

APPENDIX A
SCHEDULE OF COMPLIANCE
NOTTOWAY COUNTY SANITARY LANDFILL
PERMIT NO. 304

1. **By December 16, 2005**, Nottoway County shall provide to DEQ, documentation that the training of personnel that is required by the County's Unauthorized Waste Control Program has been completed.
2. For the months of November 2005 through April 2006, Nottoway County shall provide DEQ with copies of its Random Load Inspection Reports, as required by 9 VAC 20-80-250.C.1.c, and copies of its Monthly Self Evaluation Forms, as required by Permit Module II, Permit Attachment II-1 Operations Manual. The documents shall be submitted to DEQ not later than the 15th day of the month following their completion with the first reports due by December 15, 2005.
3. **By December 16, 2005**, Nottoway County shall submit a report to the DEQ describing its assessment of the eastern slope of Cell 1 and the lower portions of the northern and southern slopes of Cells 1 and 2 to determine whether or not those areas have reached final waste elevation as identified in the Permit. Within the report, Nottoway County shall identify a schedule for closure of any areas of Cells 1 and/or 2 identified in the assessment as having reached final waste elevation and subject to the closure requirements of the Permit. Upon approval by DEQ, any closure schedule approved pursuant to this Appendix shall be incorporated into and enforceable under the Order.